

Appl. No. : 10/020,002
Filed : December 11, 2001

REMARKS

In response to the Office Action mailed September 8, 2004, Applicant respectfully requests the Examiner to reconsider the above-captioned patent application in view of the foregoing amendments and the following comments. As a result of the amendments listed above, Claims 1-24, 26-28, 30-31, 33-38 and 40-45 remain pending, of which Claims 1-24 have been withdrawn from consideration. Claims 25, 29, 32 and 39 have been cancelled without prejudice or disclaimer, and Claims 26-28, 30-31, 33-34 and 41 have been amended. New Claims 42-45 have been added.

In the Office Action mailed September 8, 2004, the Examiner disposed of the claims as follows:

CLAIM NOS.	DISPOSITION/REJECTION		
	BASIS	PRIMARY REFERENCE	SECONDARY REFERENCE(S)
25-27	102(b)	Hoffer US 4,636,201	n/a
25-32, 34-38, 40	103(a)	Hecht EP 0 162 573 A2	n/a
33, 39, 41	Objected-to; allowable if rewritten in independent form		

The Examiner also noted the following:

a) the provisional election of Claims 25-41 made by Applicant's attorney in a telephone conversation with Examiner Yewebdar Tadesse on August 13, 2004;

b) the non-consideration of certain references cited by Applicant due to various informalities in the Information Disclosure Statements of November 2002 and March 2003;

c) Applicant's failure to point out the support in the specification for newly presented Claims 25-41; and

d) the lack of a reference to U.S. provisional application no. 60/337,343 at the beginning of the specification.

Independent Claims 33, 34, 41

In the recent Office Action, the Examiner indicated that Claims 33, 39 and 41 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In the amendments presented herein, Applicant has so rewritten Claims

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AMENDMENTS TO THE DRAWINGS

Applicant submits herewith two replacement sheets of formal drawings (nos. 20 and 46), to remedy errors made in preparing formal version of Figures 18 and 39B. Because the drawings on the replacement sheets conform to the originally-filed drawings, no amendments have been made to the drawings.

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33 and 41. Applicant therefore respectfully submits that independent Claims 33 and 41 are in condition for allowance. Applicant has amended Claim 34 to incorporate the limitations of Claim 39 (and has cancelled Claim 39, which formerly depended from independent Claim 34). Therefore Applicant submits that Claim 34 is in condition for allowance as well.

Despite the amendment and/or cancellation herein of rejected claims, Applicant respectfully does not concede the correctness of the Examiner's rejection of any of the claims. Applicant has amended and/or cancelled claims herein only to expedite prosecution of the present application. Accordingly, Applicant reserves the right to present claims similar to those presently rejected in a continuation or other descendent of the present application.

Dependent Claims, New Claims

As mentioned above, independent Claims 33, 34 and 41 are believed to be in condition for allowance. Applicant further submits that dependent Claims 26-28, 30-31, 35-38 and 40 are also in condition for allowance, due to their dependence from allowable base claims as well as their recitation of further novel and non-obvious combinations of acts.

Applicant presents herein new Claims 42-43, dependent from Claim 34. Applicant submits that Claims 42-43 are also in condition for allowance over the prior art of record.

Support for Claim Limitations Newly Presented in Previous Amendment

The Examiner noted that the previous amendment (the Supplemental Preliminary Amendment filed July 21, 2003) lacked a discussion of support for the claims newly presented therein. Descriptive support for the new claims presented therein may be found in at least the following portions of the specification. Please note that this identification of descriptive support is not intended to be exhaustive with respect to any of the claims. Rather, the following identification is intended merely to demonstrate sufficient descriptive support to satisfy section 112, paragraph 1, and the claims may find support in Applicant's lengthy specification in portions other than those identified. (All figure and paragraph numbers refer to the application as published (no. US 2002/0173847).)

CLAIM NO.	SUPPORT
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CLAIM NO.	SUPPORT
25	Figs. 39A-39B; paras. 0161-0162
26	Figs. 3-4, 39A-39B; paras. 0083-0090, 0161-0162
27	Figs. 3-4, 20, 39A-39B; paras. 0083-0090, 0115, 0161-0162
28	Figs. 39A-39B; paras. 0161-0162
29	Figs. 39A-39B; paras. 0161-0162
30	Figs. 39A-39B; paras. 0161-0162
31	Figs. 39A-39B; paras. 0161-0162
32	Figs. 39A-39B; paras. 0161-0163
33	Figs. 39A-39B; paras. 0161-0163
34	Figs. 39A-39B; para. 0162
35	Figs. 3-4, 39A-39B; paras. 0083-0090, 0162
36	Figs. 3-4, 20, 39A-39B; paras. 0083-0090, 0115, 0162
37	Figs. 39A-39B; para. 0162
38	Figs. 39A-39B; para. 0162
39	Figs. 39A-39B; para. 0162
40	Figs. 39A-39B; para. 0162-0163
41	Figs. 39A-39B; para. 0162-0163

Support for Claim Limitations Newly Presented in This Amendment

Descriptive support for the claim amendments and new claims presented herein may be found in at least the following portions of the specification. Please note that this identification of descriptive support is not intended to be exhaustive with respect to any of the claims. Rather, the following identification is intended merely to demonstrate sufficient descriptive support to satisfy section 112, paragraph 1, and the claims and amendments may find support in Applicant's lengthy specification in portions other than those identified. (All figure and paragraph numbers refer to the application as published (no. US 2002/0173847).)

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CLAIM NO.	SUPPORT
33	Figs. 39A-39B; paras. 0161-0163
34	Figs. 39A-39B; para. 0162
41	Figs. 39A-39B; para. 0162-0163
42	Figs. 39A-39B; paras. 0160, 0162
43	Figs. 16-17, 39A-39B; paras. 0091-0092, 0160, 0162
44	Figs. 39A-39B; para. 0162
45	Figs. 39A-39B; para. 0162

Election of Invention II (Claims 25-41)

Applicant hereby affirms the election, without traverse, of Invention II identified by the Examiner (Claims 25-41). This election was provisionally made by Applicant via telephone on August 13, 2004.

Supplemental Information Disclosure Statement

The Examiner noted in the recent Office Action that the Information Disclosure Statement of November 2002 lacked a complete copy of WO 01/34067, and lacked either a translation or explanation of the relevance of DE 195 01 444 A1 and FR 2 784 575. The Examiner further noted that copies of the copending U.S. Patent Applications listed in the Information Disclosure Statements of November 2002 and March 2003 do not appear in the USPTO's electronic file.

Applicant submits herewith a Supplemental Information Disclosure Statement with the following:

- a complete copy of WO 01/34067;
- complete copies and translations of 195 01 444 A1 and FR 2 784 575;
- copies of all cited co-pending U.S. Patent Applications*; and

* Where any of the cited commonly-owned, co-pending U.S. Patent Applications has the same specification as the present application, only the currently-pending claims are enclosed. Where any two or more of the cited co-pending

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- other references for consideration by the Examiner.

Amendments to the Specification

To cure the informalities noted by the Examiner, Applicant has amended the specification to make reference to provisional application no. 60/337,343. Applicant has also amended the title.

Replacement Formal Drawing Sheets

Applicant submits herewith two replacement sheets of formal drawings (nos. 20 and 46), to remedy errors made in preparing formal version of Figures 18 and 39B.

Petition Under 37 C.F.R. § 1.48(b)

Applicant submits herewith a petition under 37 C.F.R. § 1.48(b) to amend the inventorship in the present application.

Conclusion

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, issuance of a Notice of Allowance is most earnestly solicited.

Applicant respectfully traverses each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches. Although amendments, deletions and cancellations have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the amendments, deletions and cancellations are made only to expedite prosecution of the present application, and without prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby. Any arguments in support of patentability and based on a portion of a claim should not be taken as founding patentability solely on the portion in question; rather, it is the combination of features or acts recited in a claim which distinguishes it over the prior art.

U.S. Patent Applications share a common specification, only one copy of the common specification is enclosed, and the currently-pending claims of all such common-specification, commonly-owned, co-pending applications are enclosed. See the Supplemental Information Disclosure Statement submitted herewith for more information.

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The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney, Mark J. Kertz at (949) 721-6318 to resolve such issue(s) promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Oct. 15, 2004

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